

Number: **201042006**
Release Date: 10/22/2010
Index Number: 1362.01-03

Date:
July 12, 2010

Section 1362(a) provides that a small business corporation may elect to be an S corporation. Section 1362(b) provides the rule on when an S election will be effective.

Section 1362(b)(2) provides in relevant part that if an S election is made within the first two and one-half months of a corporation's taxable year, then the corporation will be treated as an S corporation for the year in which the election is made. Under § 1362(b)(3), however, if an S election is made after the first two and one-half months of a corporation's taxable year, then that corporation will not be treated as an S corporation until the taxable year after the year in which the S election is filed.

Section 1362(b)(5) provides that if no election is made pursuant to § 1362(a), or, if made, the election is made after the date prescribed for making such an election, and the Secretary determines there was reasonable cause for the failure to timely make the election, then the Secretary may treat such election as timely made for such taxable year, effective as of the first day of that year, and § 1362(b)(3) shall not apply.

X did not file a timely election to be treated as an S corporation under § 1362(a) effective D2. X has, however, established reasonable cause for not making a timely election and is entitled to relief under § 1362(b)(5).

CONCLUSION

Based solely on the facts submitted and representations made, and provided that X otherwise qualifies as a subchapter S corporation, we conclude that X will be recognized as an S corporation effective D2 if, within 120 days from the date of this letter, X submits a properly completed Form 2553, with a copy of this letter attached, to the appropriate service center.

This ruling is contingent on X and its sole shareholder, filing, within the earlier of 120 days from date of the letter or the expiration of the applicable period of limitations, federal tax returns consistent with X as an S corporation for Years.

Except as expressly provided herein, no opinion is expressed or implied concerning the federal tax consequences of the facts discussed or referenced in this letter under any other provision of the Code. Specifically, no opinion is expressed or implied concerning whether X otherwise qualifies as an S corporation for federal tax purposes.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Sincerely,

Faith P. Colson

Faith P. Colson
Senior Counsel, Branch 1
Office of the Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures (2)

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Copy of this letter for section 6110 purposes

cc: